

AMENDED IN ASSEMBLY AUGUST 2, 2010

AMENDED IN ASSEMBLY JULY 1, 2010

AMENDED IN SENATE APRIL 21, 2010

SENATE BILL

No. 1055

Introduced by Senator Ashburn

February 16, 2010

An act to add Section ~~11546.3~~ *11546.6* to the Government Code, relating to the State Chief Information Officer.

LEGISLATIVE COUNSEL'S DIGEST

SB 1055, as amended, Ashburn. State Chief Information Officer: fingerprints: criminal history.

Existing law authorizes certain state agencies to require fingerprint images and associated information from employees and prospective employees, and to furnish those images and that information to the Department of Justice for the purpose of obtaining information relating to criminal convictions.

This bill would, in addition, require the State Chief Information Officer to require fingerprint images and associated information from an employee, prospective employee, contractor, subcontractor, volunteer, or vendor whose duties include, or would include, access to confidential or sensitive information, as specified. The bill would require the State Chief Information Officer to furnish those images and that information to the Department of Justice for the purpose of obtaining information relating to certain acts, including criminal convictions or the existence and content of a record of arrest, as specified. The bill would require the State Chief Information Officer to request subsequent arrest notifications, as specified, and would authorize the Department of Justice

to assess a fee sufficient to cover the processing costs imposed by these provisions. The bill also would require that an individual who is rejected as a result of information contained in the criminal offender record receive a copy of the response record from the State Chief Information Officer and that the State Chief Information Officer develop a written appeal process for an individual who is rejected for employment because of his or her record. The bill would prohibit an individual from being ineligible for employment pursuant to these provisions until the appeal process is in place.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section ~~11546.3~~11546.6 is added to the
- 2 Government Code, to read:
- 3 ~~11546.3.~~
- 4 11546.6. (a) The State Chief Information Officer shall require
- 5 fingerprint images and associated information from an employee,
- 6 prospective employee, contractor, subcontractor, volunteer, or
- 7 vendor whose duties include, or would include, working on data
- 8 center, ~~telecommunication~~ telecommunications, or network
- 9 operations, engineering, or security with access to confidential or
- 10 sensitive information and data on the network or computing
- 11 infrastructure.
- 12 (b) The fingerprint images and associated information described
- 13 in subdivision (a) shall be furnished to the Department of Justice
- 14 for the purpose of obtaining information as to the existence and
- 15 nature of any of the following:
- 16 (1) A record of state or federal convictions and the existence
- 17 and nature of state or federal arrests for which the person is free
- 18 on bail or on his or her own recognizance pending trial or appeal.
- 19 (2) Being convicted of, or pleading nolo contendere to, a crime,
- 20 or having committed an act involving dishonesty, fraud, or deceit,
- 21 if the crime or act is substantially related to the qualifications,
- 22 functions, or duties of a person employed by the state in accordance
- 23 with this provision.
- 24 (3) Any conviction or arrest, for which the person is free on bail
- 25 or on his or her own recognizance pending trial or appeal, with a

1 reasonable nexus to the information or data to which the employee
2 shall have access.

3 (c) Requests for federal criminal offender record information
4 received by the Department of Justice pursuant to this section shall
5 be forwarded to the Federal Bureau of Investigation by the
6 Department of Justice.

7 (d) The Department of Justice shall respond to the State Chief
8 Information Officer with information as provided under subdivision
9 (p) of Section 11105 of the Penal Code.

10 (e) The State Chief Information Officer shall request subsequent
11 arrest notifications from the Department of Justice as provided
12 under Section 11105.2 of the Penal Code.

13 (f) The Department of Justice may assess a fee sufficient to
14 cover the processing costs required under this section, as authorized
15 pursuant to subdivision (e) of Section 11105 of the Penal Code.

16 (g) If an individual described in subdivision (a) is rejected as a
17 result of information contained in the Department of Justice or
18 Federal Bureau of Investigation criminal offender record
19 information response, the individual shall receive a copy of the
20 response record from the State Chief Information Officer.

21 (h) The State Chief Information Officer shall develop a written
22 appeal process for an individual described in subdivision (a) who
23 is determined ineligible for employment because of his or her
24 Department of Justice or Federal Bureau of Investigation criminal
25 offender record. Individuals shall not be found to be ineligible for
26 employment pursuant to this section until the appeal process is in
27 place.

28 (i) When considering the background information received
29 pursuant to this section, the State Chief Information Officer shall
30 take under consideration any evidence of rehabilitation, including
31 participation in treatment programs, as well as the age and specifics
32 of the offense.